

110TH CONGRESS  
1ST SESSION

# S. 1395

To prevent unfair practices in credit card accounts, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

MAY 15, 2007

Mr. LEVIN (for himself and Mrs. MCCASKILL) introduced the following bill;  
which was read twice and referred to the Committee on Banking, Housing,  
and Urban Affairs

---

## A BILL

To prevent unfair practices in credit card accounts, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Stop Unfair Practices  
5       in Credit Cards Act of 2007”.

6       **SEC. 2. STOP UNFAIR INTEREST RATES AND FEES.**

7       Section 163 of the Truth in Lending Act (15 U.S.C.  
8       1666b) is amended—

1 (1) by striking the section title and all that fol-  
 2 lows through “If an open” and inserting the fol-  
 3 lowing:

4 **“§ 163. Billing period and finance charges**

5 “(a) BILLING PERIOD.—

6 “(1) FOURTEEN-DAY MINIMUM.—If an open”;

7 (2) by striking “(B) Subsection (a)” and insert-  
 8 ing the following:

9 “(2) EXCUSABLE CAUSE.—Subsection (a)”;

10 (3) by adding at the end the following:

11 “(b) NO INTEREST CHARGE ON DEBT THAT IS PAID  
 12 ON TIME.—If an open end consumer credit plan provides  
 13 a time period within which an obligor may repay any por-  
 14 tion of the credit extended without incurring an interest  
 15 charge, and the obligor repays all or a portion of such  
 16 credit within the specified time period, the creditor may  
 17 not impose or collect an interest charge on the portion of  
 18 the credit that was repaid within the specified time period.

19 “(c) NO INTEREST ON DEBT THAT IS PAID ON TIME  
 20 AND IN FULL.—In an open end consumer credit plan, if  
 21 a billing statement requests an obligor to repay within a  
 22 specified time period all of the credit extended under the  
 23 plan and related finance charges, and the obligor pays all  
 24 of the specified amount within the specified time period,  
 25 the creditor may not impose or collect an additional inter-

1 est charge on the amount that was paid in full and within  
 2 the specified time period.

3 “(d) LIMITS ON INTEREST RATE INCREASES.—

4 “(1) IN GENERAL.—With respect to a credit  
 5 card account under an open end consumer credit  
 6 plan, the creditor shall not increase the periodic rate  
 7 of interest applicable to extensions of credit while  
 8 such account remains open, unless—

9 “(A) such increase is pursuant to the expi-  
 10 ration of an introductory rate which was dis-  
 11 closed under section 127(c)(6);

12 “(B) such increase is pursuant to the ap-  
 13 plication of a variable rate which was disclosed  
 14 under section 127(c)(1)(A)(i)(II);

15 “(C) such increase is pursuant to the ap-  
 16 plication of a penalty rate which was disclosed  
 17 under subsections (a)(4) and (c)(1)(A)(i) of sec-  
 18 tion 127; or

19 “(D) the obligor has provided specific writ-  
 20 ten consent to such increase at the time such  
 21 increase was proposed.

22 “(2) LIMIT ON PENALTY INTEREST RATE.—If  
 23 an obligor fails to repay an extension of credit in ac-  
 24 cordance with the terms of a credit card account  
 25 under an open end consumer credit plan, and the

1 creditor determines to apply a penalty rate, as de-  
2 scribed in paragraph (1)(C), notwithstanding para-  
3 graph (1)(D), such penalty rate may not, while such  
4 account is open, exceed 7 percentage points above  
5 the interest rate that was in effect with respect to  
6 such account on the date immediately preceding the  
7 first such penalty increase for such account.

8 “(e) INTEREST RATE INCREASES LIMITED TO FU-  
9 TURE CREDIT EXTENSIONS.—With respect to a credit  
10 card account under an open end consumer credit plan, if  
11 the creditor increases the periodic interest rate applicable  
12 to an extension of credit under the account, such increased  
13 rate shall apply only to extensions of credit made on and  
14 after the date of such increase under the account, and any  
15 extension of credit under such account made before the  
16 date of such increase shall continue to incur interest at  
17 the rate that was in effect on the date prior to the date  
18 of the increase.

19 “(f) NO INTEREST CHARGES ON FEES.—With re-  
20 spect to a credit card account under an open end consumer  
21 credit plan, if the creditor imposes a transaction fee on  
22 the obligor, including a cash advance fee, late fee, over-  
23 the-limit fee, or balance transfer fee, the creditor may not  
24 impose or collect interest with respect to such fee amount.

1       “(g) FIXED CREDIT LIMIT.—With respect to each  
2 credit card account under an open end consumer credit  
3 plan, the creditor shall offer to the obligor the option of  
4 obtaining a fixed credit limit that cannot be exceeded, and  
5 with respect to which any request for credit in excess of  
6 such fixed limit must be refused, without exception and  
7 without imposing an over-the-limit fee or other penalty on  
8 such obligor.

9       “(h) OVER-THE-LIMIT FEE RESTRICTIONS.—With  
10 respect to a credit card account under an open end con-  
11 sumer credit plan, an over-the-limit fee, as described in  
12 section 127(c)(1)(B)(iii)—

13               “(1) may be imposed on the account only when  
14 an extension of credit obtained by the obligor causes  
15 the credit limit on such account to be exceeded, and  
16 may not be imposed when such credit limit is ex-  
17 ceeded due to a penalty fee, such as a late fee or  
18 over-the-limit fee, that was added to the account bal-  
19 ance by the creditor; and

20               “(2) may be imposed only once during a billing  
21 cycle if, on the last day of such billing cycle, the  
22 credit limit on the account is exceeded, and no addi-  
23 tional over-the-limit fee shall be imposed in a subse-  
24 quent billing cycle with respect to such excess credit,  
25 unless the obligor has obtained an additional exten-

1 sion of credit in excess of such credit limit during  
2 such subsequent cycle.

3 “(i) OTHER FEES.—

4 “(1) NO FEE TO PAY A BILLING STATEMENT.—

5 With respect to a credit card account under an open  
6 end consumer credit plan, the creditor may not im-  
7 pose a separate fee to allow the obligor to repay an  
8 extension of credit or finance charge, whether such  
9 repayment is made by mail, electronic transfer, tele-  
10 phone authorization, or other means.

11 “(2) REASONABLE CURRENCY EXCHANGE  
12 FEE.—With respect to a credit card account under  
13 an open end consumer credit plan, the creditor may  
14 impose a fee for exchanging United States currency  
15 with foreign currency in an account transaction, only  
16 if—

17 “(A) such fee reasonably reflects the actual  
18 costs incurred by the creditor to perform such  
19 currency exchange;

20 “(B) the creditor discloses publicly its  
21 method for calculating such fee; and

22 “(C) the primary Federal regulator of such  
23 creditor determines that the method for calcu-  
24 lating such fee complies with this paragraph.

1       “(j) ANNUAL AUDIT.—The primary Federal regu-  
 2       lator of a card issuer shall audit, on at least an annual  
 3       basis, the credit card operations and procedures used by  
 4       such issuer to ensure compliance with this section and sec-  
 5       tion 164, including by reviewing a sample of billing state-  
 6       ments to determine when they were mailed and received,  
 7       and by reviewing a sample of credit card accounts to deter-  
 8       mine when and how payments and finance charges were  
 9       applied. Such regulator shall promptly require the card  
 10      issuer to take any corrective action needed to comply with  
 11      this section.”.

12   **SEC. 3. STOP UNFAIR APPLICATION OF CARD PAYMENTS.**

13       Section 164 of the Truth in Lending Act (15 U.S.C.  
 14      1666c) is amended—

15           (1) by striking the section heading and all that  
 16       follows through “Payments” and inserting the fol-  
 17       lowing:

18   **“§ 164. Prompt and fair crediting of payments**

19       “(a) IN GENERAL.—Payments”; and

20           (2) by adding at the end the following:

21       “(b) APPLICATION OF PAYMENT.—Upon receipt of a  
 22      payment from a cardholder, the card issuer shall—

23           “(1) apply the payment first to the card bal-  
 24      ance bearing the highest rate of interest, and then

1 to each successive balance bearing the next highest  
 2 rate of interest, until the payment is exhausted; and

3 “(2) after complying with paragraph (1), apply  
 4 the payment in the most effective way to minimize  
 5 the imposition of any finance charge to the account.

6 “(c) CHANGES BY CARD ISSUER.—If a card issuer  
 7 makes a material change in the mailing address, office,  
 8 or procedures for handling cardholder payments, and such  
 9 change causes a material delay in the crediting of a card-  
 10 holder payment made during the 60-day period following  
 11 the date on which such change took effect, the card issuer  
 12 may not impose any late fee or finance charge for a late  
 13 payment on the credit card account to which such payment  
 14 was credited.”.

15 **SEC. 4. STOP DECEPTIVE DISCLOSURE.**

16 Section 127(e) of the Truth in Lending Act (15  
 17 U.S.C. 1637(e)) is amended by adding at the end the fol-  
 18 lowing:

19 “(3) INTEREST RATE LINKED TO PRIME  
 20 RATE.—If a credit card solicitation, application,  
 21 agreement, or plan specifies use of a variable inter-  
 22 est rate established by reference to a ‘prime rate’,  
 23 ‘prime interest rate’, or similar rate or index, the  
 24 referenced rate shall be disclosed and defined as the  
 25 bank prime loan rate posted by a majority of the top

1       25 (by assets in domestic offices) United States  
 2       chartered commercial banks, as published by the  
 3       Board of Governors of the Federal Reserve System.  
 4       To avoid an unfair or deceptive act or practice, a  
 5       card issuer may not use the term ‘prime rate’ to  
 6       refer to any other type of interest rate.”.

7   **SEC. 5. DEFINITIONS.**

8       Section 103 of the Truth in Lending Act (15 U.S.C.  
 9   1602) is amended by adding at the end the following:

10      “(cc) PRIMARY FEDERAL REGULATOR.—

11          “(1) IN GENERAL.—The term ‘primary Federal  
 12       regulator’, when used with respect to a card issuer  
 13       that is a depository institution, has the same mean-  
 14       ing as the term ‘appropriate Federal banking agen-  
 15       cy’, under section 3 of the Federal Deposit Insur-  
 16       ance Act.

17          “(2) AREAS OF RESPONSIBILITY.—For each  
 18       card issuer within its regulatory jurisdiction, the pri-  
 19       mary Federal regulator shall be responsible for over-  
 20       seeing the credit card operations of the card issuer,  
 21       ensuring compliance with the requirements of this  
 22       title, and enforcing the prohibition against unfair or  
 23       deceptive acts or practices.”.

1 **SEC. 6. STRENGTHEN CREDIT CARD INFORMATION COL-**  
 2 **LECTION.**

3 Section 136(b) of the Truth in Lending Act (15  
 4 U.S.C. 1646(b)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “The Board shall” and in-  
 7 serting the following:

8 “(A) IN GENERAL.—The Board shall”; and

9 (B) by adding at the end the following:

10 “(B) INFORMATION TO BE INCLUDED.—

11 The information under subparagraph (A) shall  
 12 include, as of a date designated by the Board—

13 “(i) a list of each type of transaction  
 14 or event for which one or more of the card  
 15 issuers has imposed a separate interest  
 16 rate upon a cardholder, including pur-  
 17 chases, cash advances, and balance trans-  
 18 fers;

19 “(ii) for each type of transaction or  
 20 event identified under clause (i)—

21 “(I) each distinct interest rate  
 22 charged by the card issuer to a card-  
 23 holder, as of the designated date; and

24 “(II) the number of cardholders  
 25 to whom each such interest rate was  
 26 applied during the calendar month im-

1                   mediately preceding the designated  
2                   date, and the total amount of interest  
3                   charged to such cardholders at each  
4                   such rate during such month;

5                   “(iii) a list of each type of fee that  
6                   one or more of the card issuers has im-  
7                   posed upon a cardholder as of the des-  
8                   ignated date, including any fee imposed for  
9                   obtaining a cash advance, making a late  
10                  payment, exceeding the credit limit on an  
11                  account, making a balance transfer, or ex-  
12                  changing United States dollars for foreign  
13                  currency;

14                  “(iv) for each type of fee identified  
15                  under clause (iii), the number of card-  
16                  holders upon whom the fee was imposed  
17                  during the calendar month immediately  
18                  preceding the designated date, and the  
19                  total amount of fees imposed upon card-  
20                  holders during such month;

21                  “(v) the total number of cardholders  
22                  that incurred any interest charge or any  
23                  fee during the calendar month immediately  
24                  preceding the designated date; and

1 “(vi) any other information related to  
 2 interest rates, fees, or other charges that  
 3 the Board deems of interest.”; and

4 (2) by adding at the end the following:

5 “(5) REPORT TO CONGRESS.—The Board shall,  
 6 on an annual basis, transmit to Congress and make  
 7 public a report containing an assessment by the  
 8 Board of the profitability of credit card operations  
 9 of depository institutions. Such report shall include  
 10 estimates by the Board of the approximate, relative  
 11 percentage of income derived by such operations  
 12 from—

13 “(A) the imposition of interest rates on  
 14 cardholders, including separate estimates for—

15 “(i) interest with an annual percent-  
 16 age rate of less than 25 percent; and

17 “(ii) interest with an annual percent-  
 18 age rate equal to or greater than 25 per-  
 19 cent;

20 “(B) the imposition of fees on cardholders;

21 “(C) the imposition of fees on merchants;

22 and

23 “(D) any other material source of income,  
 24 while specifying the nature of that income.”.

1 **SEC. 7. CONFORMING AMENDMENT.**

2       Section 8 of the Fair Credit and Charge Card Dislo-  
3       sure Act of 1988 (15 U.S.C. 1637 note) is repealed.

4 **SEC. 8. EFFECTIVE DATE.**

5       This Act and the amendments made by this Act shall  
6       become effective 180 days after the date of enactment of  
7       this Act.

○